

**BOARD OF ENVIRONMENTAL PROTECTION**  
**Meeting Minutes**

March 19, 2009

A meeting of the Board of Environmental Protection was held on Thursday, March 19, 2009 at the Holiday Inn / Ground Round, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

**Board:** Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, and Nancy Ziegler.

Absent: Lissa Widoff, Matt Scott

Vacancy: There is one vacancy on the Board.

<b><u>Staff:</u></b>	Andrea Lani	Bureau of Air Quality
	Richard Greves	Bureau of Air Quality
	Lisa Higgins	Bureau of Air Quality
	Bryce Sproul	Bureau of Air Quality
	Ron Severance	Bureau of Air Quality
	Pete Carney	Office of the Commissioner
	Hetty Richardson	Bureau of Land and Water Quality
	Steve McLaughlin	Bureau of Land and Water Quality
	Carole Cifrino	Bureau of Remediation and Waste Management
	Karen Knuuti	Bureau of Remediation and Waste Management
	Paula Clark	Bureau of Remediation and Waste Management

**Others:** Nancy Macirowski, Assistant Attorney General  
Cindy Bertocci, BEP Executive Analyst  
Terry Hanson, BEP Administrative Assistant

***(Meeting adjourned at approximately 3:30 p.m.)***

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Prior to the regular agenda, the Board held public hearings on:

- Chapter 159 Control of Volatile Organic Compounds from Adhesives and Sealants, and
  - Chapter 125 Perchloroethylene Dry Cleaner Regulation / Amendments
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**I. DEPARTMENTAL**

**A. COMMISSIONER'S COMMENTS: NONE**

**B. COMMENTS FROM THE BEP CHAIR: NONE**

**C. EXECUTIVE ANALYST COMMENTS:**

The Board's Executive Analyst explained that Commissioner Littell was unable to attend today's meeting because of his need to participate in the verification of results from the recent RGGI auction. Additionally, the Department's Deputy Commissioner is handling legislative matters at this time and was not able to attend.

Legislative: The Joint Standing Committee on Natural Resources has been working hard on the Board's recommendation in LD 330, An Act to Change the Classification of Certain Waters of the State. In particular much time has been spent concerning the proposal to upgrade a portion of the Crooked River and discussions related to data sufficiency for characterization and potential upgrade of the lower Androscoggin River. The Committee will be conducting a work session on Friday, March 20, 2009.

Pond View: In February the Board received an update concerning the court ruling related to the Board's denial of a time extension for underground petroleum storage tanks. The Board's Executive Analyst made copies of that recent court decision available to members. Assistant Attorney General, Nancy Maciowski noted that the most recent court decision has been appealed to the Law Court. Briefs are due in May.

Board member Nancy Ziegler asked for an update on LNG projects.

The Board's Executive Analyst advised that the Calais project continues to move forward with the application process and a required information meeting is being held in Calais on Tuesday, March 24, 2009. The Department anticipates that an application will be filed sometime in June following wetland work being done this spring.

Board member M. Wing Goodale asked if the one-year review clock had been triggered.

The Board's Executive Analyst explained that the review timeline begins when the application is accepted for processing.

Board member P. Andrews Nixon asked about an update concerning LD 891 – greenhouse gas limitation on new developments.

The Board's Administrative Assistant offered to communicate this request to the Commissioner for a follow-up at the next meeting on April 16<sup>th</sup>.

Board member Nancy Ziegler asked about the status of the HoltraChem matter.

Nancy Macirowski indicated that oral argument regarding the motion to dismiss that is pending in Federal Court has not yet been scheduled.

**D. BOARD CALENDAR:** Reviewed.

**E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING:** None

**F. EXECUTIVE SESSION:** None

## **II CONSENT AGENDA ITEMS**

The Board voted (7-0-0-2) on a motion to approve consent agenda items 1 and 2 as presented.

1. E.J. CARRIER, INC. d/b/a FARMINGTON CHIPPING ENTERPRISES, Farmington Administrative Consent Agreement (BAQ)
2. NEW MEADOWS ABATEMENT, INC., Islesboro – Administrative Consent Agreement (BRWM)

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, and Nancy Ziegler voted to support the motion. Board members Lissa Widoff and Matt Scott were absent. There is one vacancy.*

The Board voted (6-0-1-2) on a motion to approve consent agenda item 3 as presented.

3. BEP Minutes – February 5, 2009 (approval)

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, P. Sue Lessard, Andrews Nixon, and Nancy Ziegler voted to support the motion. Board member Don Guimond abstained. Board members Lissa Widoff and Matt Scott were absent. There is one vacancy.*

The Board voted (7-0-0-2) on a motion to approve consent agenda items 4, 5, 6, 7, 8, 9 and 10 as presented.

4. CRANE'S CONTRACT CUTTING INC., Cherryfield – Administrative Consent Agreement (BLWQ – Water)
5. CLAYTON & PATRICIA HOLMES, Eddington – Administrative Consent Agreement (BLWQ – Water)
6. MILLENNIUM, LLC, Palmyra – Administrative Consent Agreement (BLWQ – Land)
7. LOUIS & ROBERTA MAIETTA, Raymond – Administrative Consent Agreement (BLWQ – Land)
8. ABBOTT FAMILY LIMITED PARTNERSHIP, Lebanon – Administrative Consent Agreement (BRWM)
9. ENPRO SERVICES OF MAINE, INC., South Portland – Administrative Consent Agreement (BRWM)
10. MADISON PAPER INDUSTRIES, Madison – Administrative Consent Agreement (BAQ)

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, and Nancy Ziegler voted to support the motion. Board members Lissa Widoff and Matt Scott were absent. There is one vacancy.*

### III. Regular Agenda

1. CHAPTER 595, STATE REVOLVING FUND / AMENDMENTS (emergency rulemaking adoption\*)

Staff: Steve McLaughlin and Hetty Richardson, Bureau of Land and Water Quality

The Board voted (7-0-0-2) on a motion to adopt amendments to Chapter 595, State Revolving Fund (SRF) through the emergency rulemaking provision of statute. The (SRF) provides funding for the planning, design, and/or construction of municipal wastewater treatment works and other water pollution control facilities or practices. Amendments to this rule delete federal references that no longer apply, and allow the State Revolving Fund to make loans at or below 0% interest and provide for principal forgiveness. These changes are necessary for the state to take advantage of the availability of federal stimulus money for wastewater infrastructure improvements. The vote was taken pursuant to 38 M.R.S.A Section 341-D(1-B) and 585-A, and 5 M.R.S.A. Section 8054

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, and Nancy Ziegler voted to support the motion. Board members Lissa Widoff and Matt Scott were absent. There is one vacancy.*

2. CHAPTER 595, STATE REVOLVING FUND / AMENDMENTS (post to 30-day written comment)

Staff: Steve McLaughlin and Hetty Richardson, Bureau of Land and Water Quality

The Board voted (7-0-0-2) on a motion to post to 30-day written public comment amendments to Chapter 595, State Revolving Fund (SRF). This action will provide for routine adoption of the amendments to Chapter 595 pursuant to 5 M.R.S.A. Section 8052 by the time the emergency rule expires in 90 days. The proposed amendments are necessary for the state to take advantage of the availability of federal stimulus money for wastewater infrastructure improvements. The deadline for submission of comments will be May 1, 2009. The vote was taken pursuant to 38 M.R.S.A Section 341-D(1-B) and 585-A.

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, and Nancy Ziegler voted to support the motion. Board members Lissa Widoff and Matt Scott were absent. There is one vacancy.*

3. CHAPTER 150, CONTROL OF EMISSIONS FROM OUTDOOR WOOD BOILERS / AMENDMENT (adoption\*)

Staff: Ron Severance, Bureau of Air Quality

The Board voted (7-0-0-2) to amend sections 3B(4) and 3C(4) of the draft proposed Chapter 150 to reduce the particulate emission limit from 0.20 lbs/MMBtu heat output to 0.06 lbs/MMBtu heat output for outdoor pellet boilers to qualify for further reductions in setback and stack height requirements.

3. CHAPTER 150, CONTROL OF EMISSIONS FROM OUTDOOR WOOD BOILERS / AMENDMENT (adoption\*)

Staff: Ron Severance, Bureau of Air Quality

The Board voted (7-0-0-2) on a motion to adopt amendments to Chapter 150, Control of Emissions from Outdoor Wood Boilers as amended. The rule changes incorporate provisions for outdoor pellet boilers into the outdoor wood boiler rule including particulate emission standards, siting criteria and labeling requirements. The motion included the emission limit of 0.06 lbs/MMBtu for outdoor wood pellet boilers eligible for further reductions in setback and stack height. The Board voted pursuant to 38 M.R.S.A. Sections 341-D(1-B), Section 585-A and Public Law 2007 Chapter 190.

*Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Sue Lessard, P. Andrews Nixon, and Nancy Ziegler voted to support the motion. Board members Lissa Widoff and Matt Scott were absent. There is one vacancy.*

4. RED SHIELD ENVIRONMENTAL – RED SHIELD ACQUISITION L.L.C. // BENEFICIAL USE LICENSE AMENDMENT [S-022214-WV-A-N] (Petition to Revoke, Modify, or Suspend as submitted by Charles Leithiser)

Staff: Karen Knuuti, Bureau of Land and Water Quality

The Board voted (5-0-1-3) on a motion to dismiss the petition submitted by Charles Leithiser seeking to revoke, modify or suspend the beneficial use fuel substitution license amendment (Department Order S-022214-WV-A-N) issued to Red Shield Acquisition, L.L.C, d/b/a Old Town Fuel and Fiber. The Board voted pursuant to 38 M.R.S.A. Section 341-D(3), Section 1301-1319-Y, and 06-096 CMR Chapters 2, 400, and 418.

*Board members Elizabeth Ehrenfeld, Richard Gould, Don Guimond, Sue Lessard, and Nancy Ziegler voted to support the motion. Board member M. Wing Goodale abstained. Board members P. Andrews Nixon, Lissa Widoff and Matt Scott were absent. There is one vacancy.*

**INFORMATIONAL BRIEFING**

- DEP Enforcement Policy (overview)
- Authority
- Enforcement Guidance
- Compliance Policy // Penalty Matrix
- Supplemental Environmental Projects Policy
- Small Business Compliance Incentives Policy
- Case Study